Mareeba
SHIRE COUNCIL

65 Rankin Street
PO Box 154 MAREEBA QLD 4880

P: 1300 308 461
W: www.msc.qld.gov.au
E: info@msc.qld.gov.au

17 September 2026

Planning Officer: Carl Ewin
Our Reference: RAL/25/0020
Your Reference: F23/37

The Rise Unit Trust
C/- Freshwater Planning Pty Ltd
17 Barron View Drive
FRESHWATER QLD 4870

Dear Applicants,

Negotiated Decision Notice
Planning Act 2016

I refer to your application and the representations you made in respect to the Decision Notice dated 18 June 2026. On 16 September 2026, Council decided your representations.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	RAL/25/0020
Street Address:	Catherine Atherton Drive, Mareeba
Real Property Description:	Lot 100 on SP342247
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

NEGOTIATED DECISION DETAILS

Council, on 16 September 2026, Council decided to issue the following type of approval:

Type of Approval:	Development Permit Reconfiguring a Lot – Subdivision (1 into 48 lots & balance area) in 3 stages (Stages 4 to 6)

In relation to representations, at the Ordinary Council Meeting on the 16 September 2026, Council decided to resolve the following:

(a) The approved plan/s of Council's Decision Notice issued on 18 June 2026 be amended as follows:

Plan/Document Number	*Plan/Document Title*	*Prepared by*	*Dated*
~~*9495 Master Plan Lot Layout Sheets 1 to 7*~~	~~*Development Plan Stages 4 – 6 Cancelling Lot 100 on SP342247*~~	~~*Twine Surveys Pty Ltd*~~	~~*5.05.2026*~~
9495 Master Plan Lot Layout Sheets 1 to 7	***Development Plan Stages 4 – 6 Cancelling Lot 100 on SP342247***	***Twine Surveys Pty Ltd***	***20.06.2026***

(b) Condition 4.1(b) of Council's Decision Notice issued on 18 June 2026 be amended as follows:

(b) An asphalt or bitumen sealed, or concrete driveway shall be provided within the access handle of proposed Lots 21, 22, ***26 and 91*** ~~*and 90*~~ *to the satisfaction of Council's delegated officer. The driveways will:*

- *have a minimum formation width of three (3) metres*
- *be constructed for the full length of the access handle*
- *be formed with one-way crossfall to cater for stormwater drainage such that any stormwater runoff is contained within the access handle*
- *ensure service and utility conduits are provided for the full length of the driveway/access handle.*

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is **four (4) years** starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

INFRASTRUCTURE

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a "***necessary infrastructure condition***" for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

CONSOLIDATED ASSESSMENT MANAGER CONDITIONS

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, and subject to any alterations:

   - found necessary by the Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and

- to ensure compliance with the following conditions of approval.

2. Timing of Effect

2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the endorsement of a Form 18B, except where specified otherwise in these conditions of approval.

3. General

3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.

3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval or the Adopted Infrastructure Charges Notice must be made prior to the endorsement of the plan of survey, or alternative documentation as approved by the Land Title Act and at the rate applicable at the time of payment.

3.3 The developer must relocate (in accordance with FNQROC standards) any services such as water, sewer, drainage, telecommunications and electricity that are not wholly located within the lots that are being created/serviced where required by the relevant authority, unless approved by Council's delegated officer.

3.4 Where utilities (such as sewers on non-standard alignments) traverse lots to service another lot, easements must be created in favour of Council for access and maintenance purposes. The developer is to pay all costs (including Council's legal expenses) to prepare and register the easement documents.

3.5 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

3.6 Charges

All outstanding rates, charges, and expenses pertaining to the land are to be paid in full.

3.7 Bushfire Management

A Bushfire Hazard Management Plan for the development must be prepared by a suitably qualified person/s. The Bushfire Hazard Management Plan must demonstrate compliance with the relevant performance outcomes of the Mareeba Shire Council Planning Scheme 2016 Bushfire Hazard Overlay Code. The future use of each lot must comply with the requirements of the bushfire hazard management plan at all times.

4. Infrastructure Services and Standards

4.1 Access

(a) Access to each allotment must be constructed (from the edge of the road pavement to the property boundary of each lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

The provision of layback/roll-over kerbing along the frontage of each allotment will satisfy this condition.

At the Ordinary Council Meeting dated 16 September, it was resolved that Condition 4.1 (b) of Council's Decision Notice issued on 18 June 2026, be amended as follows:

~~(b) An asphalt or bitumen sealed, or concrete driveway shall be provided within the access handle of proposed Lots 21, 22 and 90 to the satisfaction of Council's delegated officer. The driveways will:~~

- ~~have a minimum formation width of three (3) metres~~
- ~~be constructed for the full length of the access handle~~
- ~~be formed with one-way crossfall to cater for stormwater drainage such that any stormwater runoff is contained within the access handle~~
- ~~ensure service and utility conduits are provided for the full length of the driveway/access handle.~~

(b) An asphalt or bitumen sealed, or concrete driveway shall be provided within the access handle of proposed Lots 21, 22**, 26 and 91** ~~and 90~~ to the satisfaction of Council's delegated officer. The driveways will:

- have a minimum formation width of three (3) metres
- be constructed for the full length of the access handle
- be formed with one-way crossfall to cater for stormwater drainage such that any stormwater runoff is contained within the access handle
- ensure service and utility conduits are provided for the full length of the driveway/access handle.

4.2 Stormwater Drainage

(a) The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

(b) Prior to works commencing the applicant must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards

of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer.

(c) Prior to works commencing the applicant must submit a Stormwater Quality Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Urban Stormwater Quality Planning Guideline and the Queensland Water Quality Guideline to the satisfaction of Council's delegated officer.

(d) The Stormwater Quality Management Plan must include an Erosion and Sediment Control Plan that meets or exceeds the Soil Erosion and Sedimentation Control Guidelines (Institute of Engineers Australia) to the satisfaction of Council's delegated officer.

(e) The feature shown as 10 metre wide road reserve, extending between the future extension of Lee Sye Road and Easement F on SP342247 must be incorporated into the respective adjoining lot/s with an easement for drainage purposes created in favour of Council, to the satisfaction of Council's delegated officer.

(f) The applicant/developer must construct the stormwater drainage infrastructure in accordance with the approved Stormwater Management Plan and/or Stormwater Quality Management Plan and Report.

(g) Temporary drainage is to be provided and maintained during the construction phase of the development, discharged to a lawful point and not onto the construction site.

(h) All stormwater channels through private property must be registered, with the easement for drainage purposes in favour of Council. All documentation leading to the registration of the easement must be completed at no cost to Council.

(i) The applicant (at their cost) must video all stormwater lines and submit the video for inspection by Council's delegated officer prior to the development being taken "off maintenance" to ensure that no defects have occurred during the maintenance period.

(j) All drainage easements must be constructed to prevent erosion. Construction may be in the form of a concrete invert, with outlet protection.

4.3 Earthworks

All earthworks must be carried out in accordance with the requirements of the FNQROC Development Manual (as amended) to the satisfaction of Council's delegated officer.

4.4 Roadworks – Internal

(a) In order for road widths to be consistent with surrounding rural residential estates, all internal roads must be constructed with a 20m reserve width and a 7.5m carriageway width, apart from the new road servicing Stage 5 and Lots 1, 17 and 18 which may be reduced to a 7m carriageway width (20m reserve width).

All roads must be constructed in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

(b) Any temporary turn-around areas situated at the ends of any semi-constructed stub roads must include a sealed cul-de-sac head (no kerbing required) of a size capable of allowing a garbage truck to turn around on.

4.5 Water Supply

(a) A water service connection must be provided to each proposed lot in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer

(b) Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

4.6 On-Site Wastewater Management

At the time of construction of a new dwelling on any lot, any associated on-site effluent disposal system must be constructed in compliance with the latest version On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

4.7 Electricity provision/supply

The applicant/developer must ensure that an appropriate level of electricity supply is provided to each allotment in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Written advice from an Electricity Service Provider is to be provided to Council indicating that an agreement has been made for the provision of **underground** power reticulation.

4.8 Telecommunications

The applicant/developer must enter into an agreement with a telecommunication carrier to provide telecommunication services to each allotment and arrange provision of necessary conduits and enveloping pipes.

4.9 Lighting

Street lighting must be provided to all roads in accordance with FNQROC Development requirements (as amended) and to the satisfaction of Council's delegated officer.

Plans for the development works required under Conditions 4.1 - 4.9 must be submitted to Council for approval as part of a subsequent application for operational works.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

- State Assessment Referral Agency - Schedule 10, Part 3, Division 4, Table 2 (Clearing native vegetation)

A copy of of the referral agency conditions dated 29 May 2026 is attached.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
~~*9495 Master Plan Lot Layout Sheets 1 to 7*~~	~~*Development Plan Stages 4 – 6 Cancelling Lot 100 on SP342247*~~	~~*Twine Surveys Pty Ltd*~~	~~*5.05.2026*~~
9495 Master Plan Lot Layout Sheets 1 to 7	**Development Plan Stages 4 – 6 Cancelling Lot 100 on SP342247**	**Twine Surveys Pty Ltd**	**20.06.2026**

ASSESSMENT MANAGERS ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

(a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.

(b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

(c) Easement Documents

Council has developed standard easement documentation to assist in the drafting of formal easement documents for Council easements. Please contact the Planning Section for more information regarding the drafting of easement documents for Council easements.

(d) Endorsement Fees

Council charges a fee for the endorsement of a Survey Plan, Community Management Statements, easement documents, and covenants. The fee is set out in Council's Fees and Charges Schedule applicable for each respective financial year.

(e) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(f) Notation on Rates Record

A notation will be placed on Council's Rate record with respect to each lot regarding the following conditions:

- conditions regarding bushfire management
- a registered easement over the subject site

(g) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from www.dcceew.gov.au.

(h) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.dsdsatsip.qld.gov.au.

(i) Electric Ants

Electric ants are designated as restricted biosecurity matter under the *Biosecurity Act 2014*.
Certain restrictions and obligations are placed on persons dealing with electric ant carriers within the electric ant restricted zone. Movement restrictions apply in

accordance with Sections 74–77 of the *Biosecurity Regulation 2016*. Penalties may be imposed on movement of electric ant carriers and electric ants in contravention of the legislated restrictions. It is the responsibility of the applicant to check if the nominated property lies within a restricted zone.

All persons within and outside the electric ant biosecurity zone have an obligation (**a *general biosecurity obligation***) to manage biosecurity risks and threats that are under their control, they know about, or they are expected to know about. Penalties may apply for failure to comply with a general biosecurity obligation.

For more information please visit the electric ant website at Electric ants in Queensland | Business Queensland or contact Biosecurity Queensland 13 25 23.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Operational Work

RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

17. OTHER DETAILS

If you wish to obtain more information about Council's decision, electronic copies are available on line at www.msc.qld.gov.au, or at Council Offices.

DECISION NOTICE HISTORY
RAL/25/0020 – Original Decision Notice dated 18 June 2026.
RAL/25/0020 – Adopted Infrastructure Charges Notice dated 18 June 2026.
RAL/25/0020 – Negotiated Decision Notice dated 17 September 2026.

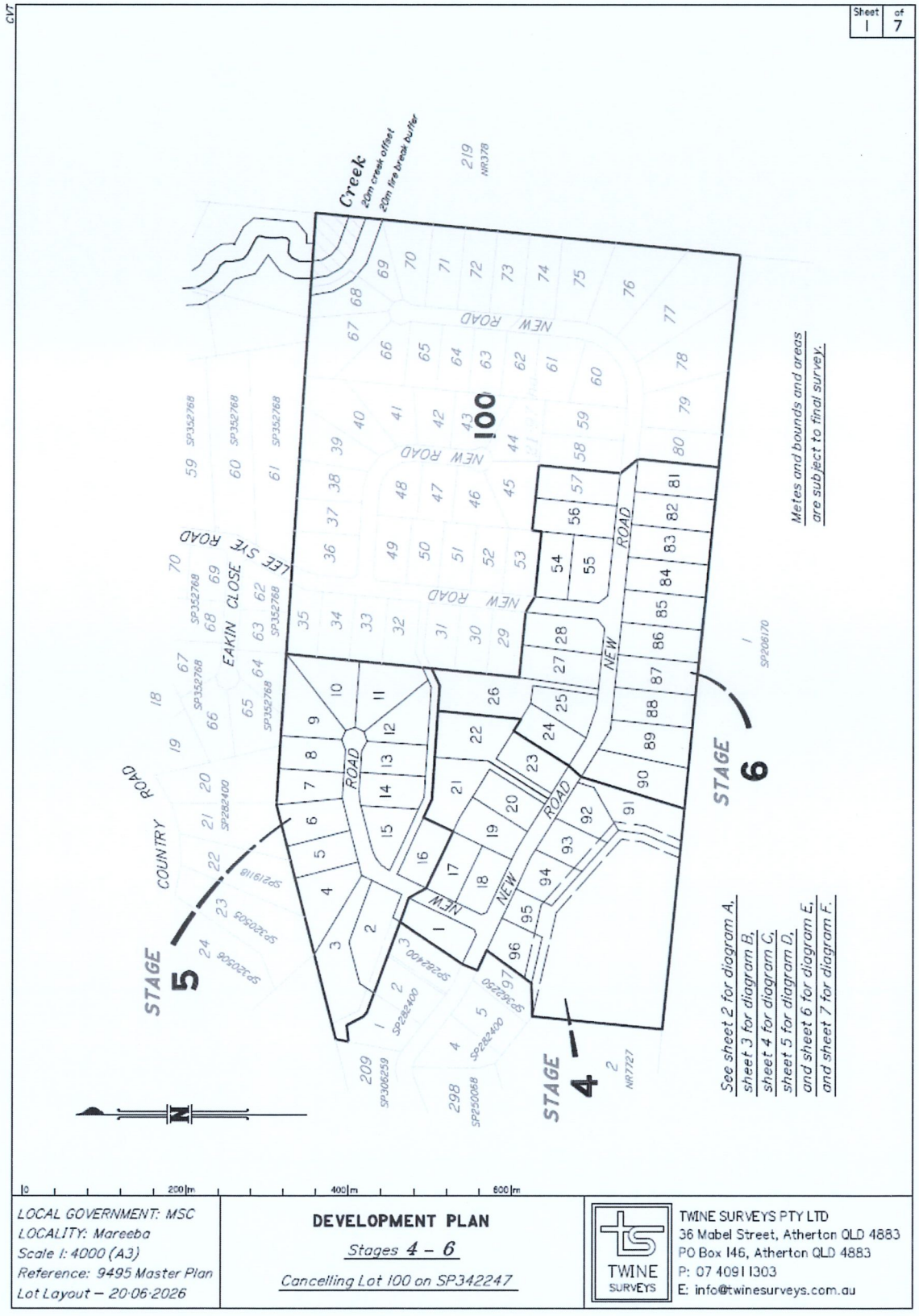
Yours faithfully

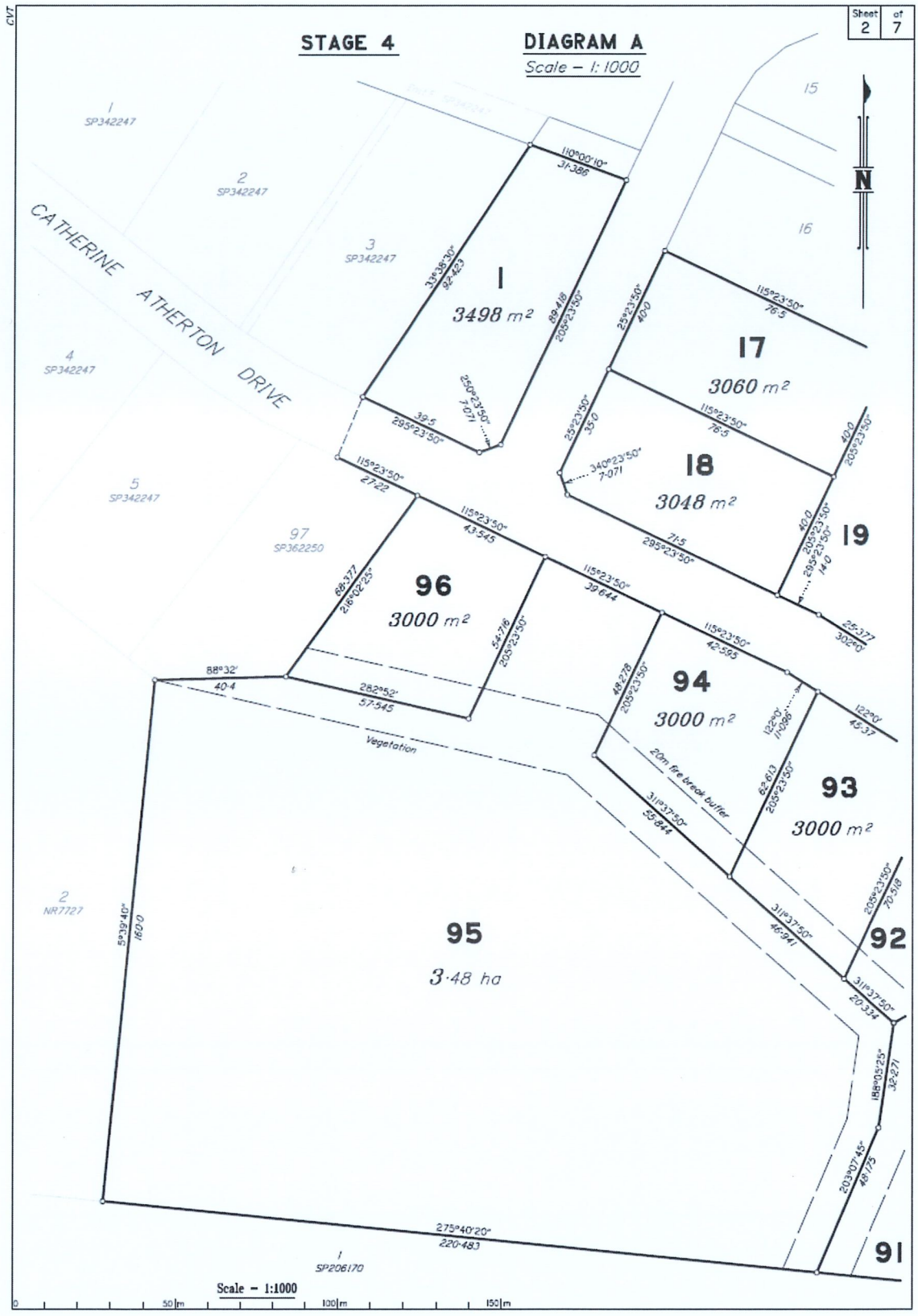
BRIAN MILLARD
COORDINATOR PLANNING & BUILDING

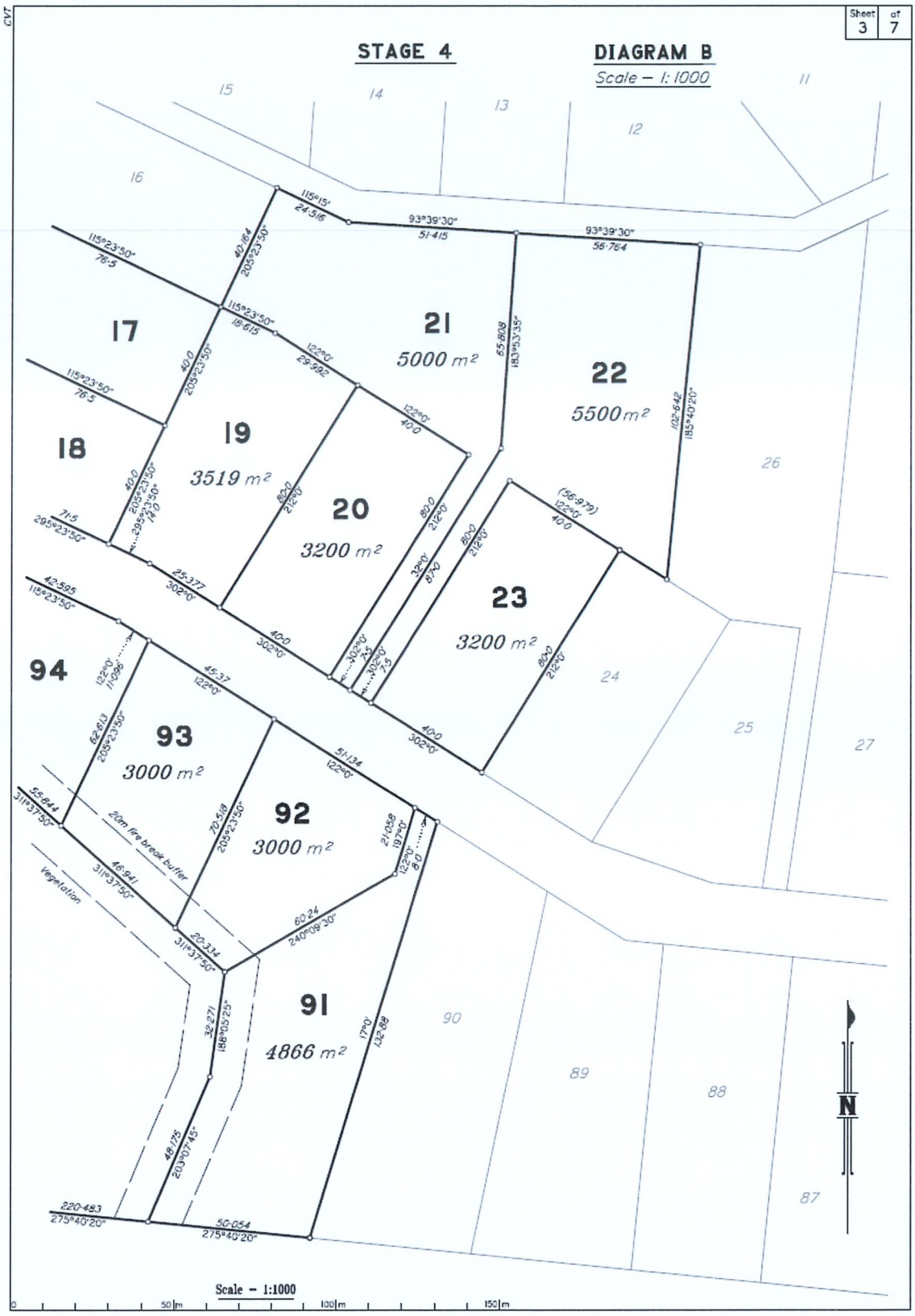
Enc: Approved Plans/Documents
Copy: Referral Agency Response
Appeal Rights
Copy: Adopted Infrastructure Charge Notice dated 18 June 2026.

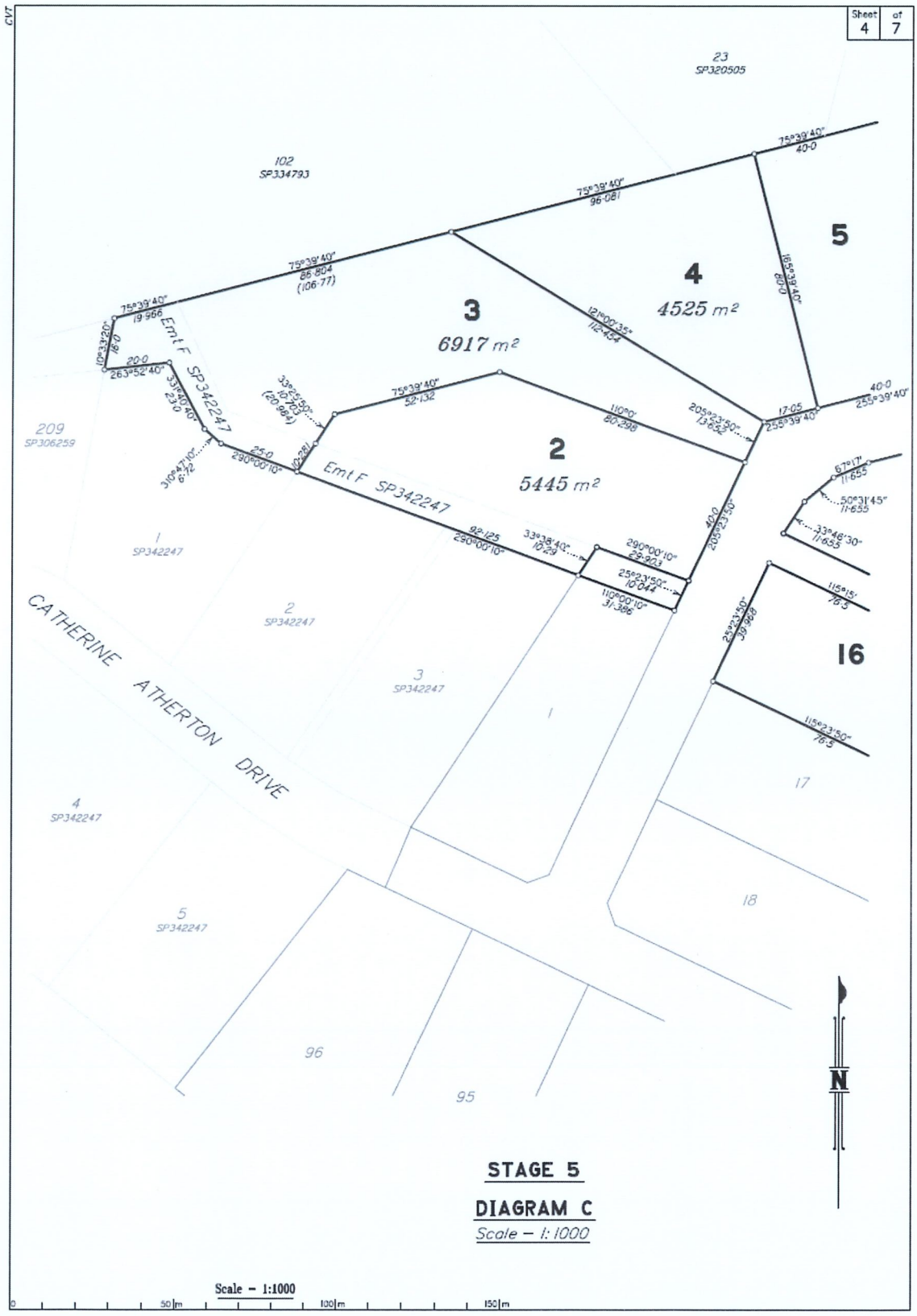
Copy: Department of State Development, Manufacturing, Infrastructure and Planning
CairnsSARA@dsdmip.qld.gov.au

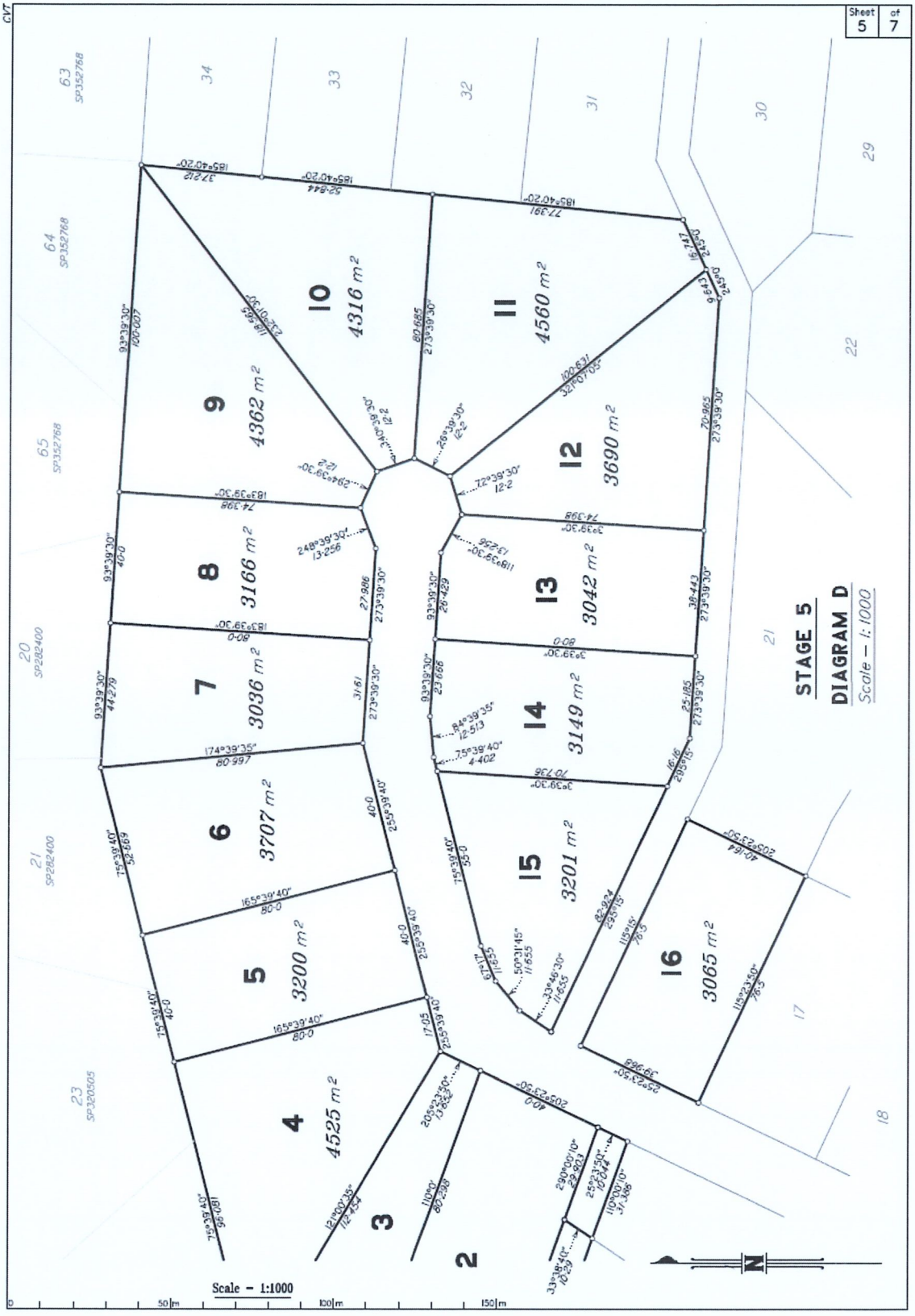
APPROVED PLANS / DOCUMENTS

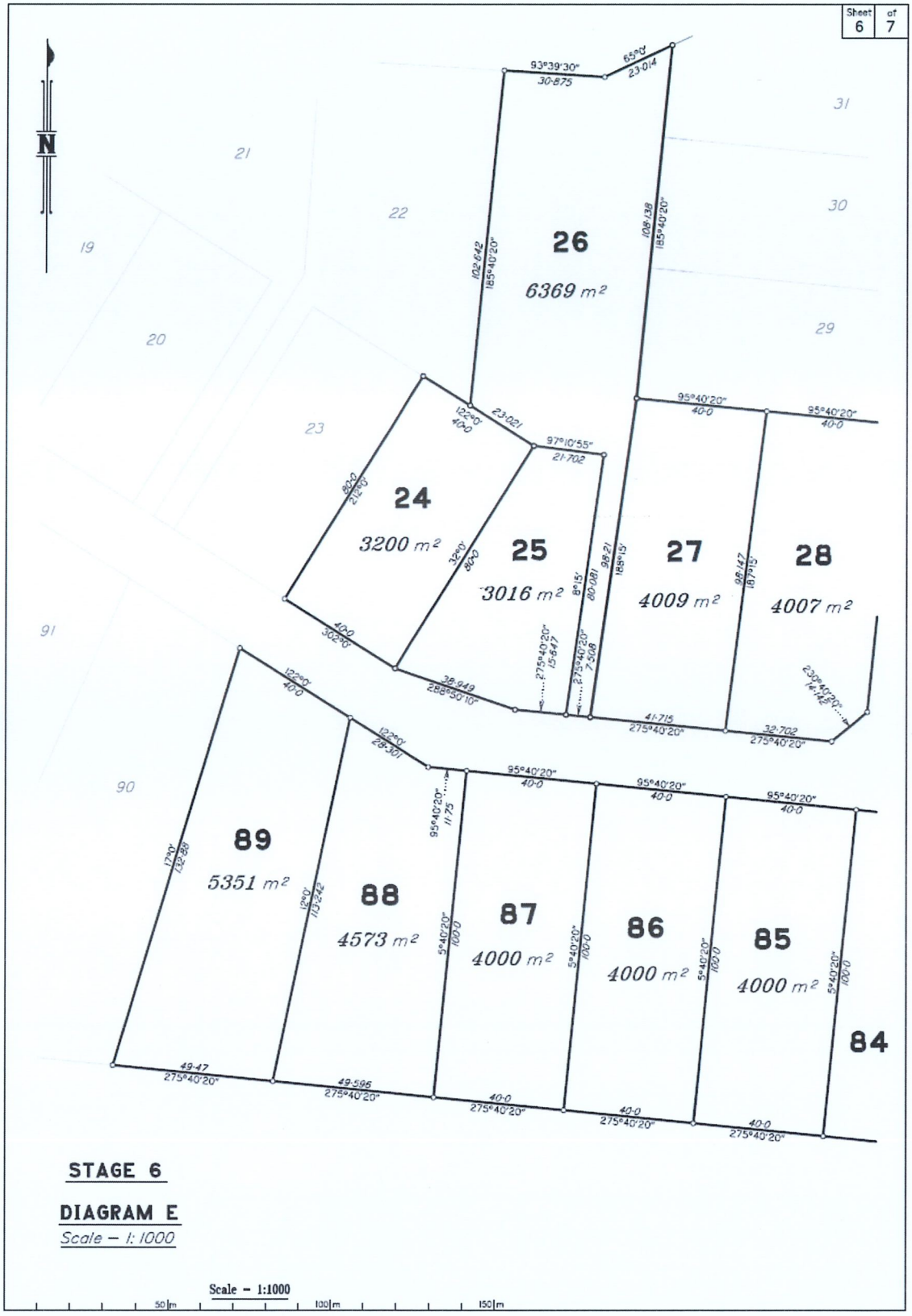



CVT
Sheet 2 of 7
STAGE 4
DIAGRAM A
Scale – 1: 1000
N
CATHERINE ATHERTON DRIVE
1 SP342247
2 SP342247
3 SP342247
4 SP342247
5 SP342247
97 SP362250
2 NR7727
1 SP206170
15
16
1
3498 m²
17
3060 m²
18
3048 m²
19
96
3000 m²
94
3000 m²
93
3000 m²
92
95
3·48 ha
91
Vegetation
20m fire break buffer
Scale – 1:1000
0
50 m
100 m
150 m


CVT
Sheet 3 of 7
STAGE 4
DIAGRAM B
Scale – 1: 1000
15
14
13
12
11
16
17
18
19
3519 m²
20
3200 m²
21
5000 m²
22
5500 m²
23
3200 m²
24
25
26
27
94
93
3000 m²
92
3000 m²
91
4866 m²
90
89
88
87
20m fire break buffer
Vegetation
N
Scale – 1:1000
0
50 m
100 m
150 m


CVT
Sheet 4 of 7
23
SP320505
102
SP334793
75°39'40"
40·0
75°39'40"
96·081
75°39'40"
86·804
(106·77)
75°39'40"
19·966
109°33'20"
18·0
20·0
263°52'40"
33°40'40"
23·0
Emt F SP342247
3
6917 m²
4
4525 m²
5
12°00'35"
112·454
185°39'40"
20·0
33°55'50"
(20·184)
75°39'40"
52·132
110°00'
80·298
205°23'50"
13·652
17·05
255°39'40"
40·0
255°39'40"
209
SP306259
310°47'10"
6·72
25·0
290°00'10"
22·281
2
5445 m²
Emt F SP342247
92·125
290°00'10"
33°38'40"
10·29
290°00'10"
29·903
25°23'50"
10·044
110°00'10"
31·386
40·0
205°23'50"
67°17'
11·655
50°31'45"
11·655
33°46'30"
11·655
115°15'
78·3
25°23'50"
39·928
16
115°23'50"
78·5
1
SP342247
2
SP342247
3
SP342247
4
SP342247
5
SP342247
CATHERINE ATHERTON DRIVE
1
17
18
96
95
N
STAGE 5
DIAGRAM C
Scale – 1:1000
Scale – 1:1000
0
50|m
100|m
150|m


Sheet 5 of 7
STAGE 5
DIAGRAM D
Scale – 1:1000
Scale – 1:1000
50|m
100|m
150|m
N
1 4525 m²
2 3200 m²
3 3707 m²
4 3036 m²
5 3166 m²
6 4362 m²
7 4316 m²
8 4560 m²
9 3690 m²
10 3042 m²
11 3149 m²
12 3201 m²
13 3065 m²


Sheet 6 of 7
N
26
6369 m²
24
3200 m²
25
3016 m²
27
4009 m²
28
4007 m²
89
5351 m²
88
4573 m²
87
4000 m²
86
4000 m²
85
4000 m²
84
STAGE 6
DIAGRAM E
Scale – 1: 1000
Scale = 1:1000


CVT
Sheet 7 of 7
N
30
46
52
29
45
53
44
58
80
28
4007 m²
54
3200 m²
55
3852 m²
56
4000 m²
57
4000 m²
86
85
4000 m²
84
4000 m²
83
4000 m²
82
4000 m²
81
4000 m²
95°40'20"
40·0
80·0
70·0
275°40'20"
185°40'20"
5°40'20"
100·0
STAGE 5
DIAGRAM F
Scale – 1: 1000
SP206170
Scale – 1:1000
0
50 m
100 m
150 m

Referral Agency Response Dated: 29 May 2026

Referral Agency Response

RA6-N

DELIVERING FOR QUEENSLAND | Queensland Government

Department of State Development, Infrastructure and Planning

SARA reference: 2510-46952 SRA
Council reference: RAL/25/0020
Applicant reference: F23/37

29 May 2026

Chief Executive Officer
Mareeba Shire Council
PO Box 154
Mareeba QLD 4880
planning@msc.qld.gov.au

Attention: Carl Ewin

Dear Sir/Madam

SARA referral agency response – Catherine Atherton Drive, Mareeba

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 6 November 2025.

Response

Outcome:	Referral agency response – with conditions
Date of response:	29 May 2026
Conditions:	The conditions in **Attachment 1** must be attached to any development approval
Advice:	Advice to the applicant is in **Attachment 2**
Reasons:	The reasons for the referral agency response are in **Attachment 3**

Development details

Description:	Development permit	Reconfiguring a Lot - Subdivision (1 into 48 lots and balance land - The Rise Estate Stages 4-6)
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 3, Division 4, Table 2, Item 1 (Planning Regulation	

Far North Queensland regional office
Ground Floor, Cnr Grafton and Hartley Street, Cairns
PO Box 2358, Cairns QLD 4870

Page 1 of 7

2510-48952 SRA

	2017) - Reconfiguring a lot that involves clearing native vegetation
SARA reference:	2510-48952 SRA
Assessment manager:	Mareeba Shire Council
Street address:	Catherine Atherton Drive, Mareeba
Real property description:	Lot 100 on SP342247
Applicant name:	The Rise Unit Trust
Applicant contact details:	C/- Freshwater Planning Pty Ltd 17 Barron View Drive Freshwater QLD 4870 freshwaterplanning@outlook.com
Human Rights Act 2019 considerations:	A consideration of the 23 fundamental human rights protected under the *Human Rights Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4.**

A copy of this response has been sent to the applicant for their information.

For further information please contact Charlton Best, Senior Planning Officer, on 07 4037 3200 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely

Kaye Atkins

Kaye Atkins
Executive Director, Planning Services

cc The Rise Unit Trust, C/- Freshwater Planning Pty Ltd, freshwaterplanning@outlook.com

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations about a referral agency response provisions
Attachment 5 - Documents referenced in conditions

2510-48952 SRA

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the documents referenced below are found at Attachment 5)

No.	Condition	Condition timing
Schedule 10, Part 3, Division 4, Table 2, Item 1 – Reconfiguring a lot that involves clearing native vegetation – The chief executive administering the *Planning Act 2016* nominates the Director-General of the Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition:		
1.	Building exclusion areas and new lot boundaries associated with the reconfiguring a lot must be located generally in accordance with the following plan: • Development Plan, Stages 4-6, Cancelling Lot 100 on SP342247, prepared by Twine Surveys Pty Ltd, dated 5.05.2026, reference 9495 Exclusion Plan, Sheet 1 of 7.	Prior to submitting the Plan of Survey to the local government for approval.

State Assessment and Referral Agency
Page 3 of 7

DECISION NOTICE
RAL/25/0020
Page 20

2510-48952 SRA

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the *Planning Act 2016*, its regulation or the State Development Assessment Provisions (SDAP) (version 3.3). If a word remains undefined it has its ordinary meaning.

2510-48952 SRA

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the SARA's decision are:

SARA assessed the development against the following code of the State Development Assessment Provisions (SDAP), version 3.3:

- State code 16: Native vegetation clearing (State code 16).

The development complies with State code 16 of SDAP in that the development:

- avoids impacts on vegetation and minimises and mitigates impacts on vegetation where avoidance is not possible
- does not result in a significant residual impact on a matter of state environmental significance.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the State Development Assessment Provisions (version 3.3)
- the Development Assessment Rules
- SARA DA Mapping system
- *Human Rights Act 2019.*

2510-48952 SRA

Attachment 4—Representations about a referral agency response provisions

(page left intentionally blank)

2510-48952 SRA

Attachment 5—Documents referenced in conditions

(page left intentionally blank)

DECISION NOTICE
RAL/25/0020
Page 24

Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules[1] regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.

28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—

(a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or

(b) the Minister has given the concurrence agency a direction under section 99 of the Act; or

(c) the applicant has given written agreement to the change to the referral agency response.[2]

28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.

28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—

(a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and

(b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

---

1 Pursuant to Section 68 of the *Planning Act 2016*

2 In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

DECISION NOTICE
RAL/25/0020
Page 25

Part 7: Miscellaneous

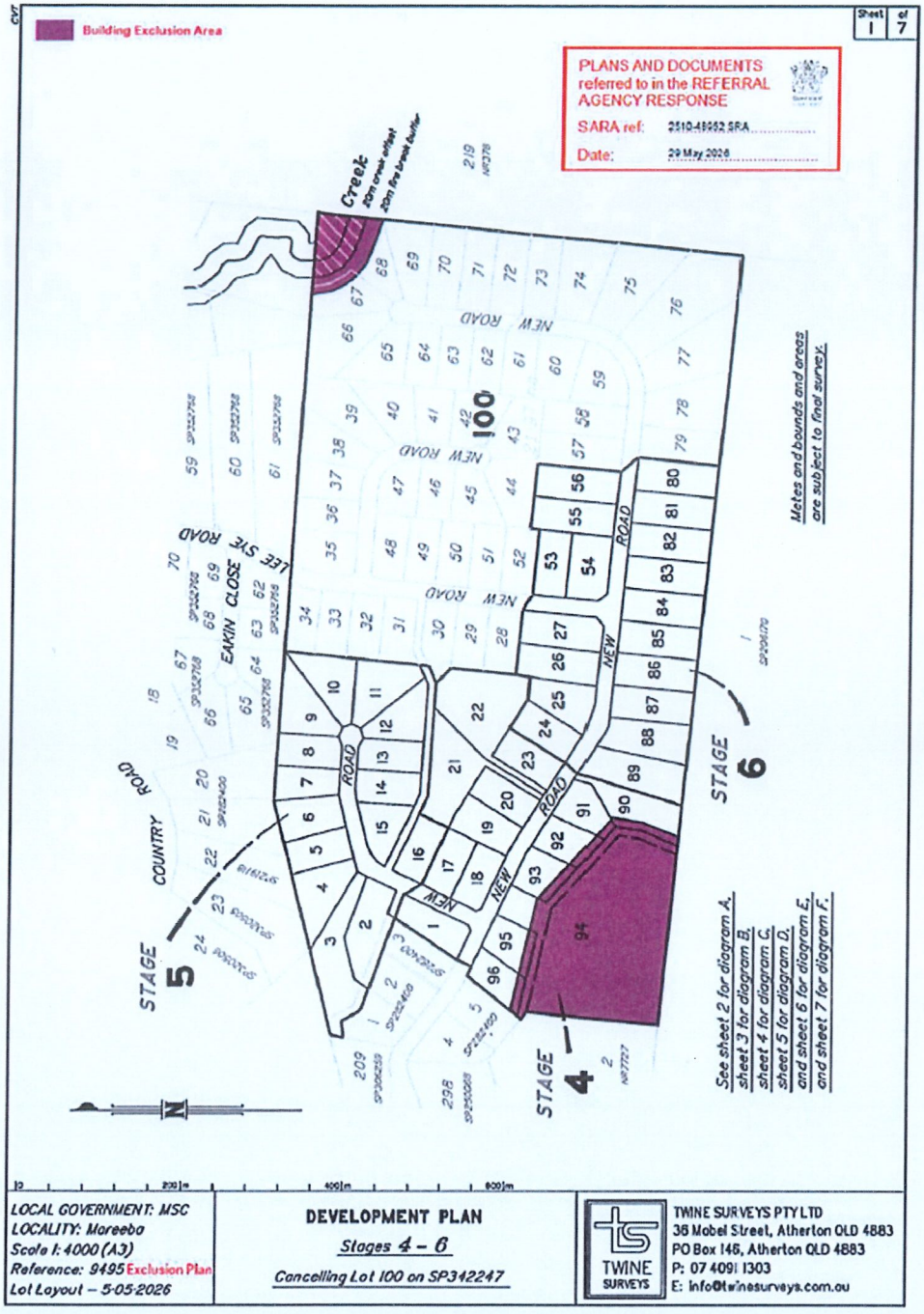
30 Representations about a referral agency response

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.[3]

[3] An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

DECISION NOTICE

RAL/25/0020
Page 26



Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

(1) Schedule 1 of the *Planning Act 2016* states –
  (a) Matters that may be appealed to –
    (i) either a tribunal or the P&E Court; or
    (ii) only a tribunal; or
    (iii) only the P&E Court; and
  (b) The person-
    (i) who may appeal a matter (**the *appellant***); and
    (ii) who is a respondent in an appeal of the matter; and
    (iii) who is a co-respondent in an appeal of the matter; and
    (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

(2) An appellant may start an appeal within the appeal period.
(3) The ***appeal period*** is –
  (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
  (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
  (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice us published under section 269(3)(a) or (4); or
  (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
  (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note –
See the P&E Court Act for the court's power to extend the appeal period.

(4) Each respondent and co-respondent for an appeal may be heard in the appeal.
(5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
(6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
  (a) the adopted charge itself; or
  (b) for a decision about an offset or refund-
    (i) the establishment cost of trunk infrastructure identified in a LGIP; or

(ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

(1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
  (a) is in the approved form; and
  (b) succinctly states the grounds of the appeal.
(2) The notice of appeal must be accompanied by the required fee.
(3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
  (a) the respondent for the appeal ; and
  (b) each co-respondent for the appeal; and
  (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
  (d) for and appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
  (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  (f) for an appeal to the P&E Court – the chief executive; and
  (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
(4) The *service period* is –
  (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
  (b) otherwise – 10 business days after the appeal is started.
(5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
(6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

(1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
(2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
(3) A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
(4) In this section –
  decision includes-
  (a) conduct engaged in for the purpose of making a decision; and
  (b) other conduct that relates to the making of a decision; and
  (c) the making of a decision or failure to make a decision; and
  (d) a purported decision ; and
  (e) a deemed refusal.
  non-appealable, for a decision or matter, means the decision or matter-

(a) is final and conclusive; and
(b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
(c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

(1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
(2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.